

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:01-CR-79-T-17AEP

DANYEL RAMON BURNETT.

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ORDER

This cause is before the Court on:

Dkt. 188	First Step Memorandum
Dkt. 192	Motion to Reduce Sentence Pursuant to First Step Act
Dkt. 194	Response

Defendant Danyel Ramon Burnett requests that his sentence be reduced to time served, followed by an 8-year term of supervised release.

The Government does not oppose a reduction to 360 months imprisonment, the low end of the advisory guidelines range, followed by an 8-year term of supervised release. The Government does oppose a sentence reduction to time served, approximately 18 years.

Defendant Burnett entered into a Plea Agreement, pleading guilty to Count 2 of the Indictment. However, Defendant Burnett did not appear for the scheduled change-of-plea hearing. (Dkt. 27). The Government filed an Information and Notice of Prior Convictions. (Dkt. 42). Defendant Burnett proceeded to a jury trial and was found guilty on Counts 1 and 2. (Dkt. 92). Defendant Burnett was sentenced on March 28, 2003 on Counts 1 and 2 to life imprisonment, a 10-year term of supervised release; fine waived, and a special assessment fee of \$200.00. (Dkt. 98). The PSR indicates that Defendant's offense involved 172.1 grams of crack cocaine.

Defendant Burnett pursued a direct appeal. The Eleventh Circuit affirmed in part, vacated in part, and remanded for further proceedings. Defendant Burnett argued on appeal that the district court erred by entering a written order that did not adequately reflect its recommendations concerning a post-sentence competency evaluation. The sentencing order contained a recommendation that Defendant Burnett be sent to an

institution where Defendant could receive a competency evaluation, but the space beside that recommendation was not marked. The Eleventh Circuit vacated the judgment for the limited purpose of allowing the district court to enter a commitment order consistent with its oral pronouncement, and specified that the proceedings on remand should be limited to entering a written order requiring a competency evaluation. (Dkt. 151).

Thereafter, an Amended Judgment was entered. (Dkt. 153).

Defendant Burnett filed a Section 2255 Petition. (Dkt. 157). The Court denied Defendant Burnett's Petition. (Dkt. 160).

Defendant Burnett moved for a sentence reduction pursuant to Amendments 748 and 750, and 18 U.S.C. Sec. 3582(c)(2). (Dkt. 163). The Government opposed Defendant's Motion. (Dkt. 170). The Court denied the Motion. (Dkt. 174). Defendant Burnett appealed the Court's Order. The Eleventh Circuit affirmed. (Dkt. 180).

In the First Step Memorandum, the U.S. Probation Office indicates that Defendant Burnett is eligible for a sentence reduction, based on the reduced statutory Penalties and Amended Guideline Provisions.

The Reduced Statutory Provisions include:

Penalty Statute	Cts. 1, 2: 21 U.S.C. Sec. 841(b)(1)(B)
Imprisonment:	Cts. 1, 2: 10 years to life
Supervised Release:	Cts. 1, 2: at least 8 years
Fine:	Cts. 1, 2: \$4,000,000 each count

The Amended Guideline reflects:

Total Offense Level:	37
Criminal History Category:	VI
Imprisonment Range:	360 months to life
Supervised Release Range:	Cts. 1, 2: at least 8 years
Fine Range:	\$20,000 to \$8,000,000

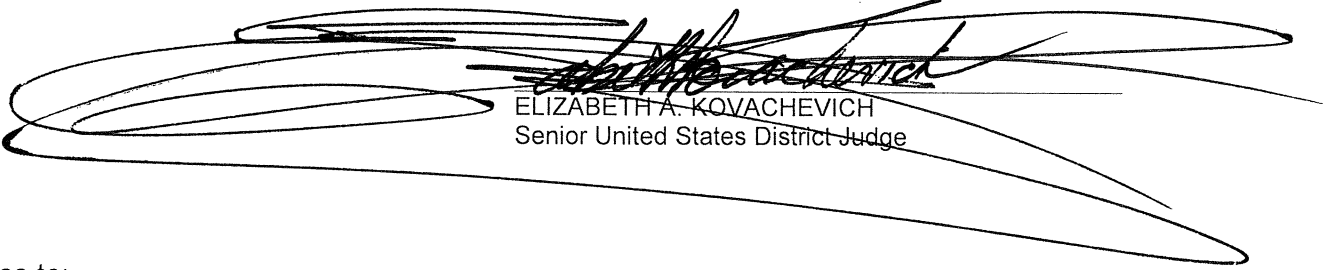
According to the First Step Memorandum, Defendant Burnett is eligible for a reduced sentence of 360 months imprisonment, or time served, whichever is greater, followed by an 8-year term of supervised release.

The Court has noted Defendant Burnett's disciplinary record, as well as the educational classes and programs that Defendant Burnett has completed.

After consideration, the Court grants Defendant Burnett's Motion for Reduction of Sentence Pursuant to Section 404 of the First Step Act in part, and denies it in part. Accordingly, it is

**ORDERED** that Defendant Danyel Ramon Burnett's Motion for Reduction of Sentence Pursuant to Section 404 of the First Step Act (Dkt. 192) is **granted in part**; the term of imprisonment is reduced from life on Counts 1 and 2 to 360 months, concurrent; the term of supervised release on Counts 1 and 2 is reduced from 10 years to 8 years, concurrent; fine waived; and a special assessment fee of \$200-.00. All terms and conditions of the previous Amended Judgment are incorporated and remain unchanged. Defendant Burnett's Motion is otherwise **denied in part**.

**DONE and ORDERED** in Chambers in Tampa, Florida on this 5<sup>th</sup> day of November, 2019.



ELIZABETH A. KOVACHEVICH  
Senior United States District Judge

Copies to:  
All parties and counsel of record  
U.S. Probation Office